

**VILLAGE OF BARRINGTON HILLS
PLAN COMMISSION MEETING
April 11, 2005**

The regular meeting of the Village of Barrington Hills Plan Commission was called to order at 7:30 p.m. by Chairman Wolfgram.

Plan Commission Members Present: Kenneth Bosworth
Patrick Hennelly
Lou Anne Majewski
James O'Donnell
Michael Schmechtig
David M. Stieper
Daniel Wolfgram, Chairman

Absent: Peter Grande
Thomas McGrath

The Attendance Sheet is attached and made part of these minutes.

PREVIOUS MINUTES: Commissioner Bosworth made the motion, seconded by Commissioner Hennelly, to approve the March 14th Minutes. Motion carried unanimously by voice vote.

MC LAUGHLIN SUBDIVISION (MINOR) / FINAL PLAT: Natalie Karney from Land Technology appeared before the Commission seeking approval of the final plat for the division of one parcel into two along with the creation of an easement of access. The parcel is located on the west side of Old Sutton Road, south of Dundee Road (State Route 68).

Ms. Karney reviewed the following issues discussed at the March 14th meeting when the sketch plan was presented for consideration: (1) Verify that both parcels consist of at least 5 acres; (2) Delineate wetlands and include that information on the plat; (3) Study the drainageway through the property; and (4) Determine high water elevation coming through the property during a 100 year storm event.

Ms. Karney reviewed the newly revised plat. She identified a change in the equestrian way, which is now being proposed to be across the entire northern border so as to avoid the drainageway to the southwest. She also said an easement will be assigned to a specific beneficiary.

The revised plat also included the location and delineation of the conservation easement. Special Counsel Gerald Callahan pointed out that such an easement gives the Village authority to maintain the drainageway properly in the event that is not done by the property owner. Based on a recent review by the Village Engineer, Ms. Karney said slight modifications will be made to the location of the easement to encompass both the wetland area as well as that of a 100 year flood. Ms. Karney added that because of these revisions the site of the proposed house on Lot 2 was also changed.

Ms. Karney then went into a further explanation of the drainageway details which, in her opinion, confirmed that more than 2.5 acres of the lot is above the high water elevation. Village Engineer Todd Gordon calculated 2.48 acres rather than the 2.5 of Land Technology. He said the interpretation of where the contour lines are is critical and that he was in agreement with the perimeters, but not with the exact location of floodplain elevation. He said they would have to come to an agreement based on engineering judgment.

When questioned whether he thought either of the lots would not meet the required 5 acres, Mr. Gordon said no. Robert Kosin went on to explain how the Zoning Ordinance permits an R-1 property owner to include up to 35 feet of right-of-way into the calculations of lot size, yet in this instance there is no such dedication. He also added that it is customary for the County to ask for that dedication of the adjoining public rights-of-way for the plat to move forward. Attorney David Buckley said he spoke with the permit engineer for Cook County who indicated to him that it would be sufficient for the Village to write a "no action" letter regarding the dedication of the right-of-way. Special Counsel Gerald Callaghan also said that should be sufficient.

Mr. Buckley spoke briefly about the proposed floor area ratio which, when considering existing conditions, may exceed the Ordinance. He suggested removal of an existing metal garage located on Lot 1 or submission of a variation request to the ZBA. The owner agreed to remove the garage.

Concerns about drainage issues were expressed by Tom Herzau, property owner to the south, and Ken Kedzierski, resident and property owner to the north. Emily McHugh, Vice President of the Riding Club, asked for a copy of the new plat and also what the width of the equestrian way would be. Mr. Karney said she'd provide a copy of the plat and the path would be 12 feet wide.

Mr. Buckley summed up some of the Commission's concerns as follows: (1) Must meet 2.5 acre minimum that is above 100 year flood plain; (2) Must meet minimum floor area ratio; (3) Clarify County dedication or setback issue; and (4) Finalize language in the conservation easement.

After consideration, it was the consensus of the Commission to postpone recommendation of the McLaughlin subdivision's final plat to a subsequent meeting. No further action was taken on this proposal.

OTHER BUSINESS: Commissioner Bosworth made the motion, seconded by Commissioner Hennelly, to propose preparation of a Resolution by the Plan Commission thanking Daria Sapp for her years of dedication to the Village, both as a former Plan Commissioner and Trustee. Motion carried unanimously by voice vote.

The meeting was adjourned at 8:55 p.m. after being so moved and seconded, to be continued on April 13th at 7:30 p.m. for consideration of an amendment to the Subdivision Ordinance regarding "Equestrian Trails".

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Continuation of the April 11th meeting was brought to order by Chairman Wolfgram at 7:30 p.m. on April 13th:

Plan Commission Members Present: Peter Grande
Lou Anne Majewski
James O'Donnell
Michael Schmechtig
David M. Stieper
Daniel Wolfgram, Chairman

Absent: Kenneth Bosworth
Patrick Hennelly
Thomas McGrath

The Attendance Sheet is attached and made part of these Minutes.

SUBDIVISION ORDINANCE AMENDMENT / EQUESTRIAN TRAILS: The Village Board at its regular meeting in January proposed that the Plan Commission undertake consideration of amending the Subdivision Ordinance to include the creation of equestrian trails. Village Attorney Douglas Wambach appeared before the Commission with his recommendation of an Equestrian Trail provision in the Subdivision Ordinance.

Mr. Wambach addressed the issue of liability and the laws existing in Illinois relative to municipal trails. The specific statute dealing with such liability is the Tort Immunity Act, which provides for absolute immunity from liability. Another portion of the Act deals with "recreational facilities." It provides limited immunity and requires an injured party to prove a "willful and wanton" condition before there can be a finding of municipal liability. It was his opinion as well as that of his law firm that the Village would not be held liable for the type of trails being proposed. He did point out, however, that if someone were injured on such a trail that the Village could still be sued even though they were not liable. There would be defense expenses incurred to the Village.

Mr. Wambach also made reference to the Equine Activity Liability Act, a different statute recognizing that equine activities are inherently dangerous with a certain degree of

risk involved. That Act allows organizations like the Riding Club of Barrington Hills to participate and sponsor those activities without having concerns of liability.

There was a discussion about trails dedicated to the Village deemed “public”, allowing public access. Mr. Wambach acknowledged that fact. During public discussion, Dan Lundmark, a member of the Riding Club, stated that in his many years of using the trails he had never once come across someone who was not a member of the Riding Club. In his opinion, that was not an issue.

Different type scenarios were brought up by several Commissioners, all involving what they believed could have potential liability. Mr. Wambach responded to them by reiterating that according to his analysis the Village would not be held liable. John Hartz (sp), President of the American Equine Insurance Group, said that when his company insured municipalities (going back to 1976) never had any municipality’s immunity been breached.

When questioned about increased liability costs, Trustee Sapp said she asked that of the former insurance carrier and was told they didn’t think there would be any more risk. They did, however, think such easements should be dedicated to the Park District rather than the Village. Mr. Wambach said that such a solution would be cumbersome as there would be three Park Districts involved. Trustee Abboud didn’t believe that approach was feasible because the constituency of the elected officials of those Park District goes beyond Barrington Hills.

Residents John Palumbo, Shirley Mitchell, Mike Sahara (sp), Bill Adair (sp), and Dennis Kelly (sp) addressed specific questions to the Commission.

The Commission reviewed the revision, suggesting some deletions (indicated by strike-throughs) and additions (indicated by [brackets]) per the attached exhibit from Mr. Wambach.

Motion: Commissioner Majewski made the motion, seconded by Commissioner Schmechtig, to recommend the adoption of the Equestrian Trail Ordinance, as amended, in the Subdivision Ordinance. Roll Call:

Ayes: Commissioners Schmechtig and Majewski, Chairman Wolfgram

Nayes: Commissioners O’Donnell, Stieper, & Grande

3 Ayes / 3 Nayes = Motion not carried.

TRUSTEE’S REPORT: Trustee Sapp reported that the Board has passed the 2005-2006 Budget at \$7 million, which was higher than the previous year due a change in the pension program. Also, they approved the Paloma Pointe final plat as recommended by the Commission.

The health and liability insurance was passed and came in under budget.

The percentage of recycling is down, with only 8.5% of trash being diverted to a landfill. Trustee Sapp encouraged everyone to recycle.

Weight restrictions for overweight vehicles are now in effect and will continue to be until further notice from the Village Engineer.

The Board is pursuing a Wildlife Management Program initially involving the deer with a head count in the winter.

In conclusion, Trustee Sapp said it had been an honor working with the Plan Commission.

There being no further business, the meeting was adjourned at 9:50 p.m. after being so moved and seconded.

Respectfully submitted,

Lou Anne Majewski
Recording Secretary

